



ANNO DECIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1966

No. 22 of 1966

An Act to amend the Excessive Rents Act, 1962.

[Assented to 17th March, 1966.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Excessive Rents Act Amendment Act, 1965-1966".

(2) The Excessive Rents Act, 1962, as amended by this Act, may be cited as the "Excessive Rents Act, 1962-1966".

(3) The Excessive Rents Act, 1962, is hereinafter referred to as "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

**Amendment of
principal Act,
s. 3—
Interpretation.**

3. Subsection (1) of section 3 of the principal Act is amended—

(a) by inserting after the word "agreement" in the definitions of "landlord" and "tenant" therein the words "to which this Act applies" ; and

(b) by striking out all the words after the word "service" in the definition of "letting agreement" therein.

4. The following section is enacted and inserted in the principal Act after section 4 thereof :—

Enactment of
principal Act,
s. 4a—

4a. (1) Subject to subsection (2) of this section, this Act shall not apply to—

Act not to
apply to
certain letting
agreements.

(a) a letting agreement in writing and signed by the parties before the commencement of the Excessive Rents Act Amendment Act, 1965, for the letting or subletting for a period of one year or more of any premises ; or

(b) a letting agreement in writing and signed by the parties after the commencement of the Excessive Rents Act Amendment Act, 1965, for the letting or subletting, or for the renewal or extension of any letting agreement in force at that time for the letting or subletting, for a period of two years or more of any premises.

(2) Where a letting agreement is made as a consequence of the tenant having received from the landlord a notice to terminate a letting agreement to which this Act applies or having received a threat from the landlord to terminate any such letting agreement, this Act shall apply to such firstmentioned letting agreement.

5. Section 5 of the principal Act is amended by striking out the words "This Act" therein and inserting in lieu thereof the passage "The provisions of this Act, other than sections 15a, 15b and 16,".

Amendment of
principal Act,
s. 5—

Act not to
apply to
certain
premises.

6. Section 14 of the principal Act is amended by inserting at the end thereof the following subsection (the preceding part of the section being designated as subsection (1) thereof) :—

Amendment of
principal Act,
s. 14—
Arrangements
to evade Act.

(2) This section shall not apply to any agreement to which section 15a of this Act applies.

7. The following sections are enacted and inserted in the principal Act after section 15 thereof :—

Enactment of
ss. 15a and
15b of
principal Act—

15a. (1) In this section—

Applications
by purchasers
of substandard
houses.

"house" includes part of a house :

"purchaser" means person referred to in subsection (2) of this section, and, where the purchaser has died (whether before or after an application is made under this section) includes—

(a) the widow of the purchaser who was residing with him at the time of his death ; or

- (b) if the purchaser died intestate without leaving a widow or if the purchaser was a woman—such member of the purchaser's family who was so residing at the time of the purchaser's death and had been so residing for not less than six months immediately preceding the death as, in default of agreement, the local court determines to be a purchaser for the purposes of this section.

(2) Where, pursuant to an agreement in writing whereby a person has agreed to buy from the owner thereof a house declared to be substandard pursuant to a declaration in force under Part VII of the Housing Improvement Act, 1940-1961, such person has entered into and remained in such house but has not yet become entitled to be registered as a proprietor in fee simple thereof, such person, or the South Australian Housing Trust acting on his behalf, may before the expiration of two years after the making of the agreement apply to the local court for an order granting relief from his obligations under that agreement in accordance with this section. The South Australian Housing Trust shall have power to make any such application.

(3) Where, having regard to the matters specified in section 8 of this Act and to all amounts paid by the purchaser and any amounts paid by the owner pursuant to the agreement, the court is satisfied—

- (a) that the purpose or the effect of the agreement is either directly or indirectly to defeat, evade or prevent the operation of this Act or of Part VII of the Housing Improvement Act, 1940-1961 ;
or

- (b) that the agreement is harsh or unconscionable or is such that a court of equity would give relief to the purchaser,

the court may, by order, set aside the agreement on such terms and conditions as the court thinks fit and may take an account between the purchaser and the owner.

(4) Without limiting the generality of subsection (3) of this section but subject to subsection (5) of this section, the court may further order—

- (a) that the purchaser may continue in occupation of such house for such period and make such periodic payments therefor (if any) as the

court determines and that, during such period of occupation, both the purchaser and the owner shall be subject to such terms and conditions as the court in the circumstances of the case thinks proper to make ; and

(b) that, where the order does not provide for any such periodic payments to be made by the purchaser as is provided for in paragraph (a) of this subsection, the owner shall pay to the purchaser upon the expiration of his occupation of the house an amount which is the excess of the amount which the purchaser has paid to the owner pursuant to the agreement over an amount which the court determines to be a fair rent for the period of his occupation whether in pursuance of the agreement or the order.

(5) The purchaser shall not, by virtue of an order under this section, be entitled to continue in occupation of the house for any period longer than the period for which he would have remained in occupation before being required under the terms of the agreement to complete the purchase of the house.

(6) Where pursuant to an order made under paragraph (a) of subsection (4) of this section the purchaser continues in occupation subject to terms and conditions as determined by the Court, such terms and conditions shall be binding on the owner and the purchaser and in the event of breach thereof the same civil remedies shall be open to such owner and purchaser as if the terms and conditions constituted an agreement made between the owner and purchaser.

(7) For the purposes of subsection (4) of this section, section 8 of this Act shall apply, with such adaptations and modifications as are necessary, to any proceedings under this section as if the agreement were a letting agreement as defined by this Act, and the application of section 19 of this Act shall extend to such agreement accordingly.

(8) Where, by virtue of an order under this section, the purchaser remains and continues in occupation of the house and, since the making of the order—

Variation of
order.

- (a) substantial alterations or additions have been made to the house or, if the purchaser is entitled to the use of any furniture or other goods in connection with the agreement, to the furniture or other goods ; or
- (b) the accommodation provided in the house has been materially increased or decreased or, if the purchaser is entitled to the use of any furniture or other goods in connection with the agreement, the furniture or other goods to be so used have been substantially increased or decreased,

the local court may, upon application by the purchaser or the owner, vary any provision of the order.

In this subsection, references to the agreement shall be read as including references to the agreement as varied by any order under this section.

(9) Upon any application under this section the local court may do all such acts, matters and things relating thereto and in the same manner and to the same extent that it is empowered to do in the exercise of its ordinary jurisdiction.

(10) The decision of the local court upon any application under this section shall be final and conclusive.

(11) Any person who fails to comply with any terms or conditions of any order made under subsection (3) or subsection (4) of this section shall be guilty of an offence.

Penalty : One hundred pounds.

(12) In any application under this section in respect of any house, a copy of the *Gazette* containing a notice purporting to be given pursuant to section 52 of the Housing Improvement Act, 1940-1961, and declaring the house to be sub-standard under Part VII of the said Act, shall, for the purposes of this Act, be *prima facie* proof of the fact that the house has been so declared to be sub-standard and that the declaration has not been revoked.

No costs to be
awarded.

15b. (1) Subject to subsection (2) of this section, no costs shall be allowed in any application under this Act unless it appears to the court that the conduct of a party in bringing or resisting the application or in relation to the subject-matter thereof has been unreasonable, vexatious or oppressive.

(2) The costs of any appeal to the Supreme Court from a decision of a local court under this Act shall be in the discretion of the Supreme Court.

8. The following section is enacted and inserted in the principal Act after section 16 thereof:—

Enactment of
s. 16a of
principal Act—

16a. (1) Any person who, without the consent of the tenant of any premises to which this Act applies, or without reasonable cause (proof whereof shall lie on the defendant) does, or causes to be done, any act, or omits, or causes to be omitted, any act whereby the ordinary use or quiet enjoyment by the tenant of the premises or of any furniture or other goods leased therewith, or of any conveniences usually available to the tenant, or of any service supplied to or provided in connection with the premises is interfered with or restricted, shall be guilty of an offence against this Act.

Persons not to
interfere with
use and
enjoyment of
premises.

Penalty : One hundred pounds.

(2) Where the landlord or any agent or servant of the landlord has been convicted of an offence under subsection (1) of this section the local court may order the landlord to do such things as are necessary to enable the tenant to resume the ordinary use or enjoyment of the premises, furniture, goods, conveniences, or service, and if the landlord fails to comply with the provisions of the order he shall be guilty of an offence against this Act.

Landlord to
comply with
order.

Penalty : One hundred pounds.

(3) For the purposes of this section, conveniences shall be deemed to be usually available to the tenant where, prior to the use of conveniences having been interfered with or restricted without his consent, he has been allowed, at all times during the tenancy to use those conveniences as he desired or he has been allowed to use those conveniences at times permitted by the landlord.

Meaning of
interference or
restrictions.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

EDRIC BASTYAN, Governor.